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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 LORAN THOMAS BACON,

15 Defendant.

Case No.: 2:22-CR-00083-TOR-1

United States' Sentencing
Memorandum

16
17 Plaintiff, United States of America, by and through United States Attorney
18 Vanessa R. Waldref, United States Attorney for the Eastern District of Washington,
19 and First Assistant United States Attorney Richard R. Barker, submits the following
20 sentencing memorandum. For the reasons set forth below, and consistent with the
21 parties' Plea Agreement, the United States respectfully seeks no more than the low
22 end of the applicable guidelines range to be followed by three years of supervised
23 release.
24

25 **STATEMENT OF FACTS**

26 As set forth in the Presentence Investigation Report (ECF No. 100)
27 and the parties' Plea Agreement (ECF No. 98), on March 9, 2019, Defendants Bacon
28 and McClure passed two \$50 counterfeit Federal Reserve Notes (FRNs) at the Super

1 Wash Laundromat located at 1632 West 2nd Avenue in Spokane. The clerk who
 2 received the counterfeit notes identified both Bacon and McClure, who were together,
 3 as the individuals who passed the notes from the surveillance video at the Super Wash
 4 Laundromat. In subsequent statements to law enforcement, both McClure and Bacon
 5 admitted to passing counterfeit notes. Additionally, on March 8, 2019, Bacon passed
 6 a \$50 counterfeit FRN at the Denny's Restaurant at 2022 Argonne Road in Spokane.
 7 ECF No. 100, ¶ 13. Days later, on March 11, 2019, Bacon passed a \$50 counterfeit
 8 FRN at Bloem Flowers Chocolate Paperie. *Id.* at ¶ 17. On April 5, 2019, Bacon passed
 9 another \$50 counterfeit FRN at Freeman Store in Valleyford, Washington. *Id.* at ¶ 21.
 10 On April 10, 2019, Bacon passed a \$50 counterfeit FRN at Jarms Ace Hardware in
 11 Cheney, Washington. *Id.* at ¶ 22. In total, Bacon caused at least \$450 in known loss to
 12 a variety of businesses. *Id.* at ¶ 28.

13 SENTENCING CALCULATIONS

14 The government agrees with United States Probation that Defendant's total
 15 offense level is 7, Criminal History Category is VI, and guideline range is 15–21
 16 months. ECF No. 100, ¶ 230.

17 SENTENCING FACTORS UNDER 18 U.S.C. §3553(a)

18 In determining the appropriate sentence, this Court should consider the factors
 19 as set forth in 18 U.S.C. § 3553(a).

20 1. The nature and circumstances of the offense and the history and 21 characteristics of Defendant.

22 The circumstances of the offense involve Defendant's intentional victimization
 23 of an innocent party by using counterfeit currency. While the offense conduct itself is
 24 less serious than many criminal acts charged in this District, Defendant's conduct has
 25 contributed to an epidemic of property crime in our community.

26 As is common in many counterfeit cases referred by the U.S. Secret Service to
 27 the United States Attorney's Office, Defendant's counterfeiting activities largely
 28 coincide with drug addiction. That addiction plainly manifest itself when Defendant

1 was released into treatment but tested positive for drug use shortly after. ECF No. 100,
2 ¶ 6. Additionally, Defendant has been unemployed for several years and gets social
3 security disability for mental health reasons. *Id.* at ¶ 244. Recently, Defendant has
4 been stressed about paying rent because a family member has been stealing his social
5 security to fund their addiction. *Id.* at ¶ 217. However, Defendant has since re-engaged
6 in treatment through Indian Services, enrolled Spokane Community College with the
7 hopes of becoming a substance abuse counselor, and has largely complied with the
8 conditions of his release, including drug testing. *Id.* at ¶ 6, 222, 223. On this
9 evidentiary record, and coupled with Defendant's early acceptance of responsibility, the
10 United States recognizes that there may be a sufficient basis for a downward
11 adjustment. As U.S. Probation has noted,

12 The Court may wish to consider the defendant's overall compliance on
13 pretrial supervision thus far, and the very small amount of loss
14 discovered in this case, when fashioning an appropriate sentence. The
15 Court may also wish to consider the defendant's criminal history score
16 which is nearly triple what is required to reach criminal history category
VI, although most of his offense are financial and driving offenses.

17 *Id.* at ¶ 255. On this record, a below-guidelines sentence may be appropriate given
18 Defendant's compliance with his pretrial release and the evidentiary record indicating
19 the criminal activity in this case occurred several years ago. *See id.*

20 2. The need for the sentence imposed to reflect the seriousness of the offense,
21 to provide just punishment, and promote respect for the law.

22 Because Defendant's offense conduct was non-violent and led to a relatively
23 small monetary loss by various businesses, a lengthy term of custody is not necessary
24 in this case. Rather, a relatively short period of custody, if necessary, followed by three
25 years of supervised release, with the accompanying restrictive conditions, is
26 appropriate to reflect the seriousness of the offense and to provide just punishment for
27 Defendant's conduct.

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Moreover, considering Defendant's criminal record and history of drug abuse (See ECF Nos. 100 at 71-150), a three-year period of supervision will require sacrifice and effort from Defendant. In this regard, supervised release, coupled with the prospect of incarceration should Defendant fail to comply with his release conditions, is necessary for Defendant to demonstrate respect for the law.

3. The need for the sentence imposed to afford adequate deterrence to criminal conduct and protect the public from further crimes of Defendant

Deterrence will be difficult in this case given Defendant's criminal history. However, Defendant has largely complied with conditions of release and treatment since reenrolling in drug treatment. *Id.* at ¶ 6. Furthermore, Defendant has engaged in proactive efforts by enrolling in college with the hope of helping others and "giv[ing] back" to the community. *Id.* at ¶ 223. The government is hopeful Defendant will be motivated to overcome adversity in a lawful manner, given he will swiftly face consequences if he does not comply with his release conditions. Ultimately, a limited period of custody (if necessary) and three years of supervision should provide Defendant with the resources appropriate for him to move forward.

4. The need to avoid unwarranted sentence disparity among defendants with similar records who have been found guilty of similar conduct.

The Guidelines ensure consistent sentences for similarly situated defendants across courtrooms, districts, and the country. *See United States v. Saetern*, 504 F.3d 1175, 1181 (9th Cir. 2007). In this case, Defendant's guideline range is 15-21 months. Here, a sentence of no more than 15 months, followed by 3 years of supervised release is appropriate guideline range for the Defendant. As noted above, and based on the unique circumstances of this case, a below guidelines sentence may also be sufficient, but not greater than necessary, to protect the community and satisfy the remaining factors under 18 U.S.C. § 3553(a).

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GOVERNMENT’S SENTENCING RECOMMENDATION

The United States requests a sentence of no more than 15 months incarceration to be followed by 3 years of supervised release.

Respectfully submitted this 2nd day of August, 2023.

Vanessa R. Waldref
United States Attorney

s/ Richard R. Barker
Richard R. Barker
First Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to counsel of record.

s/ Richard R. Barker

Richard R. Barker

First Assistant United States Attorney